

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

DAKOTA CLAY AHLGRIM,

Plaintiff,

v.

No. CIV 12-1162 JP/CEG

ROBERTO LUCERO-ORTEGA,  
JOSEPH PACHECO,  
INDIVIDUALLY AND IN THEIR OFFICIAL CAPACITIES,

Defendants.

ORDER OF DISMISSAL

This matter is before the Court *sua sponte*. By order (Doc. 7) entered on March 18, 2013, the Court denied Plaintiff's request to excuse or defer payment of the previously ordered initial partial filing-fee. The order set a deadline for payment, and Plaintiff has not complied with the order. The Court previously noted that there is no constitutional violation in requiring an inmate to choose between prison purchases and litigation. *See Shabazz v. Parsons*, 127 F.3d 1246, 1248-49 (10th Cir. 1997). "[W]hen a prisoner has the means to pay an initial partial filing fee and instead spends his money on amenities at the prison canteen or commissary, he should not be excused for failing to pay the initial partial filing fee." *Baker v. Suthers*, 9 F. App'x 947, 949 (10th Cir. 2001) (affirming dismissal for failure to make initial partial payment or show cause for excusing the failure). The Court will dismiss Plaintiff's complaint.

IT IS THEREFORE ORDERED that Plaintiff's complaint is DISMISSED without prejudice, and this action is DISMISSED.

A handwritten signature in black ink, reading "James A. Parker". The signature is fluid and cursive, with a large, stylized "P" at the end.

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UNITED STATES DISTRICT JUDGE